

REMARKS

Claims 1–20 are pending in the present application.

Claims 1 and 18 were amended herein for clarity.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 102 (Anticipation)

Claims 1–4 and 18–19 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,625,876 to *Gilhousen et al.* This rejection is respectfully traversed.

A claim is anticipated only if each and every element is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP § 2131 at p. 2100-73 (8th ed. rev. 2 May 2004).

Independent claims 1 and 18 each recite that first and second successive data signals from first and second subscriber stations, and subsequent data signals, if any, are alternately applied to first and second demodulators. In an exemplary embodiment of the invention, two modems are alternately employed to demodulate separate, successive uplink bursts from different subscriber stations, so that one modem is utilized to demodulate a received data burst while the second, currently unused modem is configured using profiles values associated with the next subsequent data burst expected to be received, to avoid delay in demodulation and increase overall throughput. Such a feature is not found in the cited reference.

Therefore, the rejection of claims 1–4 and 18–19 under 35 U.S.C. § 102 has been overcome.

35 U.S.C. § 103 (Obviousness)

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gilhousen et al* in view of U.S. Patent Application Publication No. 2001/0018326 to *Link, II*. Claims 7, 15 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gilhousen et al* in view of U.S. Patent No. 6,272,333 to *Smith*. Claims 8–10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gilhousen et al* in view of *Smith* and further in view of U.S. Patent No. 5,940,454 to *McNicol*. Claims 11–14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gilhousen et al* in view of *Smith* and further in view of U.S. Patent Application Publication No. 2002/0036985 to *Jonas et al*. Claims 16–17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gilhousen et al* in view of *Smith* and further in view of U.S. Patent No. 6,131,016 to *Greenstein et al*. These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-128 (8th ed. rev. 2 May 2004). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference

(or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

As noted above, independent claims 1 and 18 each recite a limitation not found in *Gilhousen et al.* Such a limitation is also not found in the other cited references.

Therefore, the rejection of claim 6–17 and 20 under 35 U.S.C. § 103 has been overcome.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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